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**Date:** March 17, 2007

**To:** Technology Center, U.S. Patent and Trademark Office  
Fax # (571) 273-8300

**From:** Elisa Jones  
Phone # (408) 267-0805

**Re:** Reply Brief

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**Before the Board of Patent Appeals and Interferences**

Appn. Number: 10/712,281  
Appn. Filed: November 12, 2003  
Applicants: Ibara, et al.  
Title: Page Holder Enabling Unencumbered Manual Page Turning  
Examiner/GAU: Amy J. Sterling/3632

San José, March 17, 2007

**Reply Brief**

Mail Stop Non-Fee Amendments  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Appellants hereby submit this Reply Brief in response to the Examiner's Answer mailed on January 18, 2007. Remarks begin on page 4.

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### STATUS OF CLAIMS

1. Rejected
2. Rejected
3. Rejected
4. Rejected
5. Rejected
6. Canceled
7. Rejected
8. Rejected
9. Rejected
10. Rejected
11. Rejected
12. Canceled
13. Rejected
14. Rejected
15. Canceled
16. Rejected
17. Canceled
18. Rejected
19. Rejected
20. Rejected
21. Rejected
22. Rejected
23. Rejected
24. Rejected

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**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

In accordance with MPEP § 1205.02, this section omitted by applicants *pro se*.

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## **ARGUMENT**

### **General**

Appellants' arguments are stated in the Appeal Brief. However, appellants submit this Reply Brief in order to respond to specific items in the Examiner's Answer.

### **Improper Comparison Between the Present Invention and the Reference**

Appellants have observed throughout prosecution the practice of utilizing the claim language from the present invention to define the reference, and appellants submit that this is improper. An example from the Examiner's Answer uses appellants' claim language to state that the reference "feeds and retracts additional line as the page is turned." The reader is then referred to Col. 4, lines 63-68 for operation. However, this passage does not disclose appellants' results as stated in the above claim language—rather, this passage merely states that Pannu's retaining strip can be extended to lie across the open pages of a book. Nowhere in the reference is there any support for appellants' results: the new ability to turn a page under effective retention. This apparent confusion regarding the novel nature of the present invention was further indicated by a statement contained in an Advisory Action mailed January 13, 2006. (This was in response to a Request for Reconsideration of a drawing objection made abruptly after two years of the same drawings being accepted. Appellants concurrently petitioned the Director of the Technology Center, and the petition was granted.) The Advisory Action stated: "Furthermore, the examiner is unclear as to what the alleged invention entails." This statement was made more than two years and four Office Actions after appellants' filing date. All of these Office Actions purported to make "clear" the present invention's lack of patentable merit. Appellants submit that this is not a defensible position without clarity "as to what the alleged invention entails."

### **Proof of Commercial Potential**

Appellants did not provide evidence of the development of the present invention by world-renowned manufacturer Jim Dunlop for the simple reason that new evidence is not admissible in an Appeal Brief. However, Jim Dunlop's product developer had offered to supply such

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documentation, and thus was not omitted for any lack thereof. Moreover, appellants did make reference to this commercial development process in papers faxed October 20, 2004 (p. 10) and December 19, 2005 (Petition Director). The Examiner's Answer stated that this commercial potential is speculative; however, there is nothing speculative about Jim Dunlop's well-established corner on the market for musical accessories, and appellants restate that Jim Dunlop has paid for all development (and factory prototypes) of the present invention. If the validity of appellants' statements regarding this process of commercial acquiescence by Jim Dunlop is in question, they can be simply verified by contacting his product developer, David Adam, or Jim Dunlop himself:

David Adam  
AIMDesign  
1540 Rampart Way  
Brentwood, CA 94513  
(925) 240-6187  
(510) 414-7454

Jim Dunlop, Sr.  
Dunlop Manufacturing, Inc.  
170 Industrial Way  
Benicia, CA 94510  
(800) 722-3434

Appellants' tremendous commercial potential is further demonstrated by the interest of Art Dragon, Disneyland Band Director, and his offer for the Disneyland Band to beta-test the present invention (as mentioned in the appeal brief). If appellants' results were neither novel, unexpected, nor useful to the public, Mr. Dragon would not have made such an offer. If appellants have captured the interest of the likes of the Disneyland Band, it is reasonable to conclude that the invention's commercial potential is hardly speculative in nature.

#### **Argument Regarding Bedridden Persons Unpersuasive**

The Examiner's Answer stated: "With regards to claims 11 and 21 the applicant argues that the method of being 'immediately turned under retention' is not shown by the references . [sic] This is unpersuasive in that the Pannu reference teaches that a bedridden person can read a book using the device...and this would not be possible unless the books [sic] pages were able to be turned

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and read accordingly." Appellants simply point out that the condition of being bedridden does not preclude the ability to release a retaining strip, turn a page, and reattach the retaining strip, according to the method necessary with all prior-art page holders. Appellants again pose the question: If Pannu had accomplished the revolutionary results of the present invention, why is there no mention of these results in his patent?

### **Conclusion**

For all the above reasons, in addition to those set forth in the appeal brief, appellants submit that the claims all define patentably over the prior art. Therefore they submit that this application is in condition for allowance, which action they respectfully solicit.

Very respectfully,

Elisa Jones for Ibara, *et al*, Applicants Pro Se

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**Certificate of Facsimile Transmission.** I certify that on the date below I will fax this paper to the Technology Center of the U.S. Patent and Trademark Office at (571) 273-8300.

March 17, 2007

Elisa M. Jones